REMARKS

In the Office Action, the Examiner rejected claims 1, 2, 3, and 5 under 35 U.S.C.

§ 103(a) as being unpatentable over BUFFAM (U.S. Patent No. 6,185,316) in view of

KANEVSKY et al. (U.S. Patent No. 5,897,616), rejected claim 4 under 35 U.S. C. §

103(a) as being unpatentable over BUFFAM (U.S. Patent No. 6,185,316) in view of

KANEVSKY et al. (U.S. Patent No. 5,897,616) in view of FUJIMOTO (U.S. Patent No.

5,893,057), rejected claims 6 and 7 under 35 U.S. C. § 103(a) as being unpatentable over

BUFFAM (U.S. Patent No. 6,185,316) in view of KANEVSKY et al. (U.S. Patent No.

5,897,616) in view of GLAZE (U.S. Patent No. 6,320,974), rejected claims 8, 9 and 10

under 35 U.S. C. § 103(a) as being unpatentable over BUFFAM (U.S. Patent No.

6,185,316) in view of KANEVSKY et al. (U.S. Patent No. 5,897,616) in view SAWYER

(U.S. Patent No. 6,324,271), rejected claim 11 under 35 U.S. C. § 103(a) as being

unpatentable over BUFFAM (U.S. Patent No. 6,185,316) in view of KANEVSKY et al.

(U.S. Patent No. 5,897,616) in view of SAWYER (U.S. Patent No. 6,324,271) in view of

FUJIMOTO (U.S. Patent No. 5,893,057), rejected claims 12-15 under 35 U.S. C. §

103(a) as being unpatentable over BUFFAM (U.S. Patent No. 6,185,316) in view of

SAWYER (U.S. Patent No. 6,324,271) in view of CHMAYTELLI (U.S. Patent No.

6,542,729) in view of WEISS (U.S. Patent No. 4,998,279), and rejected claims 16-22

under 35 U.S. C. § 103(a) as being unpatentable over SAWYER (U.S. Patent No.

6,324,271) in view of KANEVSKY et al. (U.S. Patent No. 5,897,616) in view of WEISS

(U.S. Patent No. 4,998,279).

Claims 1-22 were pending in the present application prior to the above

amendments. Claim 12 has been amended to improve form. No new matter has been

added by way of this amendment. Reconsideration and allowance of all claims 1-22 in view of the following remarks are respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 1, 2, 3, and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over BUFFAM (U.S. Patent No. 6,185,316) in view of KANEVSKY et al. (U.S. Patent No. 5,897,616). Applicant respectfully traverses.

Independent claim 1 recites a method of validating a user for a transaction to be effectuated by using a transaction card. The method includes configuring a biometric profile for said user, the biometric profile including a plurality of biometric samples received from the user, where the plurality of biometric samples corresponding to a plurality of questions. The biometric profile is associated with an indicium assigned to said transaction card. The user is biometrically interrogated when the transaction is attempted by the user, where the biometrical interrogation includes querying the user for a biometric response associated with a randomly selected one of the plurality of questions. The biometric response generated with respect to said user in response to the biometrical interrogation is monitored and it is determined if the biometric response matches a biometric sample in the biometric profile corresponding to the randomly selected one of said plurality of questions. If so, the user is approved for the transaction.

A proper rejection under 35 U.S.C. § 103 requires that three basic criteria be met. First, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest *each and every claim feature*. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicant respectfully submits that the cited combination of BUFFAM and KANEVSKY et al. fail to disclose or reasonably suggest the combination of features recited in Applicant's claim 1.

For example, BUFFAM and KANEVSKY et al. do not disclose or suggest the feature of querying the user for a biometric response associated with a <u>randomly selected one of the plurality of questions</u>, as recited in claim 1. In particular, the Examiner admits that BUFFAM fails to disclose or suggest querying the user for a response associated with a randomly selected one of the plurality of biometric samples (Office Action, pg. 3). The Examiner cites KANEVSKY et al. to remedy this deficiency. Applicant respectfully submits that KANEVSKY et al. likewise fails to disclose or reasonably suggest the recited feature.

In making the rejection, the Examiner relied on col. 3, lines 28-44 of KANEVSKY et al. for allegedly disclosing matching voice samples taken from answers to random questions (Office Action, pg. 3). Applicant respectfully submits that this section of KANEVSKY et al. does not disclose or suggest querying the user for a response associated with <u>a randomly selected one of the plurality of questions</u>, where the questions correspond to a plurality of biometric samples stored in the user's profile, as required by claim 2.

At col. 3, lines 28-44, KANEVSKY et al. discloses:

...(d) querying the speaker with at least one random (but questions could be non-random) question (but preferably more than one random question) based on the information contained in the accessed database; (e) receiving second spoken word utterances of the speaker, the second spoken utterances being representative of at least one answer to the at least one random question; (f) decoding the second spoken utterance; (g) verifying the accuracy of the decoded answer against the information contained in the accessed database serving as the basis for the question; (h) taking a voice sample from the utterances of the speaker and processing the voice sample against an acoustic model attributable to the speaker candidate; (i) generating a score corresponding to the accuracy of the decoded answer and the closeness of the match between the voice sample and the model...

This section of KANEVSKY et al. discloses using random questions to elicit a voice response from a user. The received voice response may then be separately analyzed for accuracy and its closeness to an acoustic model attributable to the user. This section of KANEVSKY et al. does not disclose eliciting a response associated with a randomly selected one of a plurality of questions _corresponding to a plurality of biometric samples received from the user during configuration_.

KANEVSKY et al. is silent with respect to the specific manner in which the acoustic model is generated. However, the generated model is clearly not the source for the randomly selected questions, since this is retrieved from an accessed database. Moreover, this section of KANEVSKY et al. clearly indicates that a single summary acoustic model taken over numerous samples is compared against the received sample and that the acoustic comparison is conducted separately from the accuracy portion of the analysis. Furthermore, KANEVSKY et al. discloses that conventional voice recognition (not voice authentication) is initially performed to determine question accuracy (see, e.g., col. 6, lines 34-65). Following an accuracy determination, the received sample is compared against previously built user model (see, e.g., col. 6, line 66 – col. 7, line 14). Clearly, KANEVSKY et al. does not disclose eliciting a response associated with a

randomly selected one of a plurality of questions, where the questions correspond to a plurality of biometric samples received from the user during configuration. For at least the foregoing reasons claim 2 is patentable over the cited combination of BUFFAM and KANEVSKY et al.

Claims 2, 3, and 5 depend from claim 1 and are therefore patentable over BUFFAM and KANEVSKY et al. for at least the reasons set forth above with respect to claim 1. Reconsideration and withdrawal of the pending rejections are respectfully requested.

Claim 4 was rejected under 35 U.S. C. § 103(a) as being unpatentable over BUFFAM in view of KANEVSKY et al. in view of FUJIMOTO et al. (U.S. Patent No. 5,893,057). Applicant respectfully traverses.

Claim 4 depends from claim 1. Applicant respectfully submits that the disclosure of FUJIMOTO et al. does not remedy the deficiencies of BUFFAM and KANEVSKY et al. as set forth above with respect to claim 1. Therefore, claim 4 is patentable over the cited combination of BUFFAM, KANEVSKY et al., and FUJIMOTO et al. for at least reasons similar to those given above with respect to claim 1.

Claims 6 and 7 were rejected under 35 U.S. C. § 103(a) as being unpatentable over BUFFAM in view of KANEVSKY et al., and further in view of GLAZE et al. (U.S. Patent No. 6,320,974). Applicant respectfully traverses.

Claims 6 and 7 depend from claim 1. Applicant respectfully submits that the disclosure of GLAZE et al. does not remedy the deficiencies of BUFFAM and KANEVSKY et al. as set forth above with respect to claim 1. Therefore, claims 6 and 7

are patentable over the cited combination of BUFFAM, KANEVSKY et al., and GLAZE

et al. for at least reasons similar to those given above with respect to claim 1.

Claims 8, 9 and 10 were rejected under 35 U.S. C. § 103(a) as being unpatentable

over BUFFAM in view of KANEVSKY et al. in view SAWYER et al. (U.S. Patent No.

6,324,271). Applicant respectfully traverses.

Claims 8-10 depend from claim 1. Applicant respectfully submits that the

disclosure of SAWYER et al. do not remedy the deficiencies of BUFFAM and

KANEVSKY et al. as set forth above with respect to claim 1. Therefore, claims 8-10 are

patentable over the cited combination of BUFFAM, KANEVSKY et al., and SAWYER

et al. for at least reasons similar to those given above with respect to claim 1.

Claim 11 was rejected under 35 U.S. C. § 103(a) as being unpatentable over

BUFFAM in view of KANEVSKY et al., further in view of SAWYER, and still further

in view of FUJIMOTO. Applicant respectfully traverses.

Applicant respectfully submits that the disclosures of SAWYER et al., and

FUJIMOTO et al. do not remedy the deficiencies of BUFFAM and KANEVSKY et al. as

set forth above with respect to claim 1. Therefore, claim 11 is patentable over the cited

combination of BUFFAM, KANEVSKY et al., SAWYER et al., and FUJIMOTO et al.

for at least reasons similar to those given above with respect to claim 1.

Claims 12-15 were rejected under 35 U.S. C. § 103(a) as being unpatentable over

BUFFAM in view of SAWYER et al. in view of CHMAYTELLI et al. (U.S. Patent No.

6,542,729), and further in view of WEISS (U.S. Patent No. 4,998,279). Applicant

respectfully traverses.

Independent claim 12 recites a fraud prevention method for use in a transaction-card-based system having a conventional authentication process. The method includes determining, by utilizing said conventional authentication process, if a fraudulent transaction is being attempted in said transaction-card-based system by a user using a transaction card. If a fraudulent transaction is determined, the user is biometrically interrogated to obtain a biometric sample from the user. Upon obtaining the biometric sample, access is denied to the user for the transaction in the transaction-card-based system if the biometric sample does not match an entry stored in a biometric profile database inherently associated with the transaction card's owner, wherein the biometric profile database includes a plurality of biometric samples previously received from the user. BUFFAM, SAWYER et al., CHMAYTELLI et al., and WEISS, whether alone or in any reasonable combination, do not disclose or suggest the combination of features recited in Applicant's claim 12.

For example, BUFFAM, SAWYER et al., CHMAYTELLI et al., and WEISS does not disclose or suggest determining if a fraudulent transaction is being attempted and denying access to the user for the transaction in the transaction-card-based system if the biometric sample does not match an entry stored in a biometric profile database inherently associated with the transaction card's owner, wherein the biometric profile database includes a plurality of biometric samples previously received from the user as required by claim 12. The Examiner acknowledged that BUFFAM and SAWYER et al. fail to disclose or suggest such a feature and relies on the alleged disclosure of CHMAYTELLI et al. to remedy the noted deficiency. More specifically, the Examiner relied on col. 8, lines 6-20 for allegedly disclosing an authentication method wherein if a

use fails to enter a password correctly, the system will lock. Further, the Examiner

indicates that CHMAYTELLI et al. allegedly discloses that a voice recognition procedure

may be used to unlock the system (Office Action, pg. 7). Applicant respectfully submits

that this section of CHMAYTELLI et al. does not disclose or suggest determining if a

fraudulent transaction is being attempted and denying access to the user for the

transaction in the transaction-card-based system if the biometric sample does not match

an entry stored in a biometric profile database inherently associated with the transaction

card's owner, *wherein the biometric profile database includes a plurality of biometric*

samples previously received from the user, as required by claim 12.

At col. 8, lines 6-20, CHMAYTELLI et al. discloses:

> If the current user fails to enter the password correctly within a predetermined
> number of attempts, the mobile telephone becomes locked in step 216 (i.e., the
> current user will no longer be able to receive incoming calls on the mobile
> telephone.) At this point, the mobile telephone cannot be reactivated by entering a
> password. In the preferred embodiments, the user will then be able to use either of
> two methods to unlock (and thereby also reactivate) the mobile telephone (and
> may receive a prompt on a display on the mobile telephone to this effect). The
> user may attempt to unlock the mobile telephone through a voice recognition
> procedure in step 218 or through calling an operator of the carrier in step 220 and
> providing the operator with standard identification data.

This section of CHMAYTELLI et al. discloses that a mobile phone may be locked

after a predetermined number of failed attempts. Further, this section discloses that a

user may attempt to unlock the mobile telephone through a voice recognition procedure.

This section of CHMAYTELLI et al. does not disclose determining if a fraudulent

transaction is being attempted and denying access to the user for the transaction in the

transaction-card-based system if the biometric sample does not match an entry stored in a

biometric profile database inherently associated with the transaction card's owner,

wherein the biometric profile database includes a plurality of biometric samples

previously received from the user. Rather, CHMAYTELLI et al. disclose performing a voice recognition procedure to unlock the mobile phone. Voice recognition procedures, as contrasted with voice or biometric authentication procedures, merely attempt to interpret a user's vocal response. No authentication of the user is performed. Clearly, the system of CHMAYTELLI et al. does not disclose matching a biometric sample received at the time of querying with entries stored in a biometric profile database inherently associated with the transaction card's owner, wherein the biometric profile database includes a plurality of biometric samples previously received from the user, as required by claim 12. For at least this reason claim 12 is patentable over the cited combination of BUFFAM, SAWYER et al., CHMAYTELLI et al., and WEISS.

Claims 13-15 depend from claim 12. Therefore, Applicant submits that claims 13-15 are patentable over BUFFAM, SAWYER et al., CHMAYTELLI et al., and WEISS for at least the reasons given above with respect to claim 12.

Claims 16-22 were rejected under 35 U.S. C. § 103(a) as being unpatentable over SAWYER et al. in view of KANEVSKY et al., and further in view of WEISS. Applicant respectfully traverses.

Independent claim 16, as amended, recites an access control system for use with a transaction-card-based scheme. The access control system includes a network operable with a terminal, the terminal for interacting with a user in association with a transaction card. A controller is disposed in the network to query the user when the user attempts a transaction using the transaction card. A server is disposed in the network to respond to messages from the controller with respect to querying the user. A profile database is coupled to the server, the profile database having a plurality of biometric samples

inherently coupled to the user, where the plurality of biometric samples relate to a plurality of questions, and where the biometric samples are associated with an indicium assigned to the transaction card such that when the user attempts the transaction, the controller queries the user for a response relating to a randomly selected one of the biometric samples and if the response does not match a corresponding entry in the profile database, access is denied to the user for the transaction. The cited combination of SAWYER et al., KANEVSKY et al., and WEISS fail to disclose or reasonably suggest each and every feature of claim 16.

For example, SAWYER et al., KANEVSKY et al. and WEISS fail to disclose or suggest a controller that queries the user for a response <u>relating to a randomly selected one of the plurality of biometric samples</u>, wherein the plurality of biometric samples relate to a plurality of questions. The cited combination of SAWYER et al., KANEVSKY et al., and WEISS do not disclose or suggest this feature. The Examiner acknowledged that SAWYER et al. does not disclose or suggest this feature and relied on col. 3, lines 26-44 of KANEVSKY et al. for allegedly disclosing receiving spoken answers in response to submitted questions, and verifying the user and the answers via a biometric database (Office Action, pg. 8). Applicant respectfully submits that this section of KANEVSKY et al. does not disclose or suggest a controller that queries the user for a response relating to a randomly selected one of the plurality of biometric samples, wherein the plurality of biometric samples relate to a plurality of questions, as recited by claim 16.

As recited above, col. 3, lines 26-44 of KANEVSKY et al. discloses using random questions to elicit a voice response from a user. The received voice response

may then be separately analyzed for accuracy and its closeness to an acoustic model

attributable to the user. This section of KANEVSKY et al. does not disclose or suggest a

controller that queries the user for a response relating to a randomly selected one of the

plurality of biometric samples, wherein the plurality of biometric samples relate to a

plurality of questions. In fact, as noted above, KANEVSKY et al. is silent with respect to

the specific manner in which the acoustic model is generated. However, the generated

model is clearly not the source for the randomly selected questions, since this is retrieved

from an accessed database. Moreover, this section of KANEVSKY et al. clearly

indicates that a single acoustic model is compared against the received sample and that

the acoustic comparison is conducted separately from the accuracy portion of the

analysis. Furthermore, KANEVSKY et al. discloses that conventional voice recognition

(not voice authentication) is initially performed to determine question accuracy (see, e.g.,

col. 6, lines 34-65). Following an accuracy determination, the received sample is

compared against previously built user model (see, e.g., col. 6, line 66 – col. 7, line 14).

Clearly, KANEVSKY et al. does not disclose a controller that queries the user for

a response relating to a randomly selected one of the plurality of biometric samples,

wherein the plurality of biometric samples relate to a plurality of questions.. The cited

WEISS reference does not remedy the noted deficiencies with respect to the SAWYER et

al. and KANEVSKY et al. references, as note above. For at least the foregoing reasons

claim 16 is patentable over the cited combination of SAWYER et al., KANEVSKY et al.

and WEISS. Accordingly, reconsideration and withdrawal of the rejection of claim 16 are

respectfully requested.

Claim 17-22 depend from claim 16. Therefore, Applicant submits that claims 17-22 are patentable over SAWYER et al., KANEVSKY et al., and WEISS for at least the reasons given above with respect to claim 16.

CONCLUSION

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise which could be eliminated through discussions with Applicants' representative, the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 13-2491 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: November 23, 2005

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